

REMARKS

The Examiner is thanked for the thorough examination of the present application. The FINAL Office Action, however, has continued to reject all pending claims 1-9 and 11-19. Applicant respectfully requests reconsideration of the rejections for at least the following additional reasons (distinctions previously advanced in Applicant's previous response are herein incorporated by reference).

Specifically, claims 1-9 and 11-19 stand rejected in the FINAL Office Action under 35 U.S.C. §103(a) as allegedly being obvious over *Pape* (U.S. Patent No. 6,664,897) in view of *Macbeath* (US Patent Application Publication No. 2004/0111346). Applicant respectfully traverses this rejection on the independent grounds that: (1) even if properly combined, *Pape* and *Macbeath* fail to properly disclose or suggest all claimed features; and (2) there is no proper motivation in the prior art to combine the relevant teachings of the references.

The Combination of Pape and Macbeath Fail to Disclose all Claimed Features

First, even if properly combined, the combination of *Pape* and *Macbeath* fails to disclose all features of the independent claims.

Turning first to claim 1, independent claim 1 recites:

1. A symmetry database system for a data processing system, comprising:
 - a data source for storing source data;
 - a data preparation platform to filter the source data into a symmetry data source; and
 - a plurality of process engines to fetch data from the symmetry data source and generate results according to the data;

wherein the process engines are serial data process engines, and one of the process engines fetches both data from the symmetry data source and results from another of the process engines.

The Office Action alleges that Macbeath teaches this feature in paragraph [0136]. Applicant respectfully disagrees. First, Macbeath is broadly directed to methods of automating financial transactions, whereas the present invention is directed to a symmetry database system and method. More specifically, paragraph [0136] of Macbeath states:

[0136] All of these banking and supply chain transactions are reflected by data captured by the database in accordance with the common data model. The resulting data may then be used by various management processes, including accounts receivable management seen at 241 which manages collections. Supply chain management functions seen at 243 utilize data stored in the database to make purchasing decisions. Seen at 245 sales targeting decisions, pricing and credit terms decisions may be enhanced with analytical systems operating over the data captured in the database. Equally, purchasing decisions such as supplier selection and pricing decisions seen at 245 may be supported by analytical systems operating over the data captured in the database covering such issues concerning customers or suppliers such as past delivery performance, payment history, pricing history and the like, to assist in the negotiation processes as 203 and 223. These analytical systems may combine the data in the database with that supplied by other firms also using the common data model and/or data supplied by agencies such as credit bureaus.

The Office Action alleged that the “analytical system or each computer system of other firms or agencies is equivalent to each of Applicant’s ‘process engines’.” Applicant respectfully disagrees with this interpretation and application of Macbeath.

First, there is no teaching in the cited portion of Macbeath of a “symmetry database” at all. Further, there is no teaching in the cited portion of Macbeath of a process engine (or analytical system – as equated by the Office Action) “fetching data from both the symmetry data source and from another of the process engines.” Indeed, Applicant wholly fails to see the relevance of the cited portion of Macbeath to the claimed feature at question.

For at least this reason, Applicant submits that, even if Macbeath and Pape are properly combined, the resulting combination still fails to disclose all claimed features. Consequently, the rejection of independent claim 1 should be withdrawn.

Independent claim 11 recites a similar feature, and indeed has been rejected on the same basis as claim 1 (see Office Action, p. 8). Accordingly, the rejection of independent claim 11 should be withdrawn for at least the same reasons as claim 1 (set forth above). As all remaining claims depend from either claim 1 or 11, the rejections of the remaining claims should be withdrawn for the at least the reason that those claims include all of the features of independent claim 1 or 11.

There is No Proper Motivation to Combine Pape and Macbeath

As a separate and independent basis for the patentability of all claims, Applicant respectfully submits that there is no proper motivation to support the combination of Pape and Macbeath. The Office Action alleged that the combination would have been obvious because “it provides the ability to interoperate services among organizations in order to communicate and process data more effectively and efficiently.” Applicant respectfully traverses this rationale. Even assuming that the allegation of the Office Action is true, the mere fact that a benefit or enhancement may result from a particular combination, does not necessarily motivate the combination. Instead, there must exist specific teachings (in the prior art itself) that would lead a person to make a particular combination of specific features. In the present situation, the Office Action has merely alleged a general motivation for combining the two references generally, but not combining particular features of the two references (i.e., why just the feature described in paragraph [0136] of Macbeath would be combined with the system of Pape. As such, the rationale for the combination is inconsistent with clearly established precedent from the Federal Circuit.

It is well-settled law that in order to properly support an obviousness rejection under 35 U.S.C. § 103, there must have been some teaching in the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. W. L. Gore & Associates, Inc. v. Garlock

Thomas, Inc., 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

"The consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this [invention] should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. ..." Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure... In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention."

(*Emphasis added.*) In re Dow Chemical Company, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, Applicant notes that there must not only be a suggestion to combine the functional or operational aspects of the combined references, but that the Federal Circuit also requires the prior art to suggest both the combination of elements and the structure resulting from the combination. Stiftung v. Renishaw PLC, 945 Fed.2d 1173 (Fed. Cir. 1991). Therefore, in order to sustain an obviousness rejection based upon a combination of any two or more prior art references, the prior art must properly suggest the desirability of combining the particular elements to derive a symmetry database system, as claimed by the Applicant.

The FINAL Office Action in page 3 admits that *Page* does not teach the process engines required in claim 1, but regards each analytical system or computer system of other firms or agencies in the section [0136] of *Macbeath* as a process engine in claim 1. Without indicating any motivation in the cited references, the FINAL Office Action in Page 4 states as follows:

"It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified *Pape et al.* by the teaching of *Macbeath et al.*, since modifying the process engines as a serial process engines wherein one of the process engines fetches both data from the symmetry data source and results from another of the process engines provides the ability of the process engines to interoperate. As a result, it provides the ability to interoperate the services among organizations in order to communicate and process data more effectively and efficiently."

What the FINAL Office Action states above regarding the combination of the teaching in the prior art has no grounds in the prior art of record. There is no evidence in the prior art showing why a person skilled in the art, even if having known *Page* and *Macbeath*, will make such a modification as mentioned by the FINAL Office Action. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Since there is no such suggests in *Page* or *Macbeath* to make the modification mentioned by the FINAL Office Action, the FINAL Office Action does not establish a *prima facie* case of obviousness and the 103(a) rejection should be withdrawn. Applicant believes that the 103(a) rejection is overcome and claim 1 is allowable in view of the prior art of record.

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-9 and 11-19 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,



Daniel R. McClure
Registration No. 38,962

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.

Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500